



THE TRIAL PROCESS:

YOUR RIGHTS
AND
RESPONSIBILITIES
AS
A VICTIM



“Crime Victims, as defined by law or their lawful representatives, including the next of kin of homicide victims, are entitled to the right to be informed, to be present, and to be heard when authorized, at all crucial stages of criminal proceedings, to the extent that these rights do not interfere with the constitutional rights of the person accused of committing the crime...”

Amendment No. 557, Constitution of
Alabama, 1901 (ratified January 6, 1995)

Violent crime continues to rise. Everyday there is news about murder, assault or rape. No one likes to think about becoming a victim of violent crime, but statistics show that it can happen to anyone — no matter what age, financial status or race.

Recovering from the pain and suffering you have experienced as a victim, or as a family member of a victim of violent crime, is difficult. Victims experience not only emotional trauma, but also physical pain and sometimes financial loss. Victims should be treated with dignity, courtesy, respect and sensitivity. VICTIMS' RIGHTS should be honored and protected by law enforcement, prosecutors, judges and all others involved to the same extent as afforded the rights of criminal defendants.

As you progress through the various stages of a trial, you may become angry and frustrated because you want to see swift justice. You may find that justice does not always prevail. Criminals may be released on procedural grounds, cases may never go to trial, or years may pass before a conviction is handed down. If appealed after a conviction, some cases are reversed and returned for another trial. Regardless of the results of the trial, you may not be satisfied with the outcome.

Understanding the criminal justice system and its workings can be extremely confusing and can often delay the healing process. If the criminal is convicted and sentenced to a term in jail, you will continue to be faced with

uncertainty. The jail, or prison having criminal custody, has a number of legal options including releasing the prisoner earlier than ordered by the Courts.

In an effort to alleviate hardships suffered by victims of crime, the **Alabama Crime Victims Compensation Commission** was established in 1984. The organization provides compensation to victims for medical expenses due to personal injuries, or for funeral and counseling services. You may be eligible for compensation if:

- You have been a victim of a personal injury as the result of criminally injurious conduct, or you are the dependent of such a victim.
- An application is filed within one year of the incident, or good cause shown.
- The incident was reported to law enforcement within 72 hours, or good cause shown.
- You did not cause or contribute to the injury.
- You fully cooperated with law enforcement officials.

In addition to financial assistance, the Alabama Crime Victims Compensation Commission also provides other areas of assistance:

- Information pamphlets and brochures
- Referral and resources
- Assistance on issues such as parole and court advocacy
- Informing the general public concerning the plight of the victim
- Training for people who serve crime victims
- Fighting for victims' rights

Today, victims like you have more rights than ever before. If you need assistance in understanding your rights, you may call the Alabama Crime Victims Compensation Commission in Montgomery at (334) 242-4007, toll-free 1-800-541-9388, or you may call your local district attorney.

LAW ENFORCEMENT'S ROLE

Within 72 hours after a crime report has been filed, the local law enforcement officer who assists you, must provide you:

- A list of local emergency and crisis services available.
- Information on the availability of victims compensation benefits, and the name, address, and telephone number of the Alabama Crime Victims Compensation Commission.
- The name and telephone number of the law enforcement officer and agency handling the report.
- The procedural steps involved in criminal prosecution.
- The rights of the victims, authorized by the Alabama Constitution, including a form to invoke these rights.
- The existence and eligibility requirements of restitution and compensation.
- A recommended procedure if the victim is threatened or intimidated.
- The name and telephone number of the office of the prosecuting attorney.

LAW ENFORCEMENT'S OTHER RESPONSIBILITIES

- The victim may request the return of his/her property that was taken during the criminal investigation, or that was admitted into evidence.

THE PROSECUTING ATTORNEY'S ROLE

Upon written request of the victim, the prosecuting attorney is required to:

- Notify the victim of all charges filed against the criminal.
- Notify the victim of criminal proceedings, and any changes that may occur, (except initial appearances).
- Confer with the victim before trial begins and prior to the final disposition of the charges.
- Consider the views of the victim about a nol pros, charge reduction, pre-trial diversion programs and sentence recommendations.
- Notify the victim of a plea agreement, the date the plea will be presented to the courts, the terms of the plea agreement, and the victim's right to be present.
- Notify the victim prior to sentencing, of the charges filed against the criminal, the date of conviction, acquittal, or dismissal.
- Notify the victim of the existence and the functions of the pre-sentence report; and the name, address and telephone number of the Board of Pardons and Paroles which prepares the pre-sentence report.

- Notify the victim of the criminal's right to review the pre-sentence report.
- Notify the victim about their right to make a Victim Impact Statement or provide information concerning the crime.
- Notify the victim about their right to be present throughout all criminal proceedings; their right to be heard at any sentencing proceeding; the time, place and dates of the sentencing proceedings.
- Notify the victim about their right to have restitution ordered and the right to pursue collection of restitution. (Pursuant to 15-18-65 et. seq., Code of Alabama 1975)
- Notify the victim of the sentence imposed on the criminal.
- Provide the victim with the names, addresses and telephone numbers of the appropriate agencies to whom request for notice should be provided.
- The victim has the right to be notified of the status of any post-conviction court review or appellate proceedings.
- The victim has the right to have the Attorney General or the prosecuting attorney to assert any rights to which the victim is entitled.

The victim shall respond to a subpoena to testify at trial or reasonably participate in the preparation of trial or other criminal proceedings without the loss of employment, or intimidation, threats or fear of the loss of employment in responding to a subpoena or by assisting the prosecutor's case. Code of Alabama 15-23-81

IF THE VICTIM FAILS TO REQUEST IN WRITING TO BE NOTIFIED AND FAILS TO KEEP THIS INFORMATION CURRENT, THE REQUEST FOR NOTICE WILL BE CONSIDERED TO BE WITHDRAWN AND VOID.

THE COURT'S ROLE

On behalf of the victim the Court will:

- Provide a waiting area separate from the criminal, relatives of the criminal and defense witnesses; or minimize victim's contact with the criminal, relatives of the criminal and defense witnesses during court proceedings.
- Ensure the victim the right to present evidence, an impact statement, or information concerning the criminal offenses, or the sentence during any pre-sentencing, sentencing or restitution proceedings.
- Return property which was taken as evidence if a photograph can be substituted.
- Ensure the victim's right to review the pre-sentence investigative reports at the same time the document is made available to the criminal.
- Keep the address, phone number, place of employment or other identifying information about the victim confidential.
- Direct the Court Clerk to accept partial payments of restitution due to the victim from the criminal upon conviction.
- Recognize the victim's right to refuse an interview or other communication by the criminal, his attorney or any other acting on behalf of the criminal.

- Honor the victim's right not to testify during any pre-trial or trial proceedings to facts that could divulge the victim's identity, residence or place of employment or to other information without the victim's consent.

The Court will not:

- Accept a plea agreement unless the prosecuting attorney advises the Court that reasonable efforts were made to confer with the victim, and that all notice requirements to the victims have been met.
- Accept a plea agreement unless the prosecuting attorney assures the Court that reasonable efforts were made to notify the victim of the plea proceedings; of the dates, and the terms of the plea proceedings; and of the offenses to which the criminal will plead guilty.

**THE CUSTODIAL AGENCY'S ROLE:
SHERIFF, MUNICIPAL JAILER, DETENTION
FACILITY, DEPARTMENT OF YOUTH SER-
VICES, DEPARTMENT OF CORRECTIONS,
BOARD OF PARDONS AND PAROLES**

The victim has the right to **request in writing** to be notified when the criminal posts a bond for release and of the release of the criminal.

**AGENCY HAVING
PHYSICAL CUSTODY**

- The victim has the right to **request in writing** to be notified of the criminal's escape and his return to custody.

- The victim has the right to **request in writing** to be notified 15 days prior to the end of a criminal's sentence and of the death of the criminal.
- The victim has the right to be notified **upon written request** that he/she may submit a written statement or recorded message to the Department of Corrections, and have the statement entered into the criminal's prison record. The statement will be considered during any review for community status or release of the prisoner.
- The victim has the right to be notified, present and heard by the Board of Pardons and Paroles when parole or pardon is considered.

MENTAL HEALTH AND MENTAL RETARDATION

The victim has the right to be notified and have a copy of the release opinion from the Department of Mental Health and Mental Retardation; or any facility with custody of the criminal who has been found not guilty by reasons of mental disease or defect; and who is to be released because he/she has been determined no longer a danger to society.

THE VICTIM'S ROLE

As defined by law, victims, and/or family members of the victim have the constitutional right to be informed, to be present, and to be heard at all crucial stages of criminal proceedings.

However, if these rights are to be enforced, victims and family members also have certain responsibilities and duties to ensure these rights. Some of these responsibilities include:

- **INVOKING your rights** by providing and maintaining to the office of the prosecuting attorney a **written request** to be notified throughout the trial process.
- Remaining informed.
- Cooperating fully.
- Asking questions. Getting the facts.
- **Notifying in writing** all parties in the criminal justice to whom notice should be provided.
- Keeping a journal including a list of the dates, time and people with whom you have spoken and have provided notice.
- Asking for assistance.

Be patient, but persistent.

These rights do not include the authority to direct prosecution.

Through your involvement in the prosecution of the criminal, you can make your community a safer one in which to live and work. It takes patience and commitment from yourself and others for the criminal justice system to work. Protecting your rights includes learning about the trial process, and invoking your rights to remain informed during the various stages of criminal proceedings.

*A Brochure for Victims of Crime
Provided by the*



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